THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 4909 of 2006

Dated: 14.3.2006

Between:

Melasu Chinna Ramaswamy Naidu s/o Kannala Naidu, aged 62 years & 3 others.

..... PETITIONERS

AND

1.The Joint Collector and Revisional Authority,

Visakhapatnam & another.

.....RESPONDENTS

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 4909 of 2006

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ORDER:

The writ petition is filed questioning the order of the 1st respondent-Joint Collector-Revisional Authority, dated 20.2.2006 directing the 2nd respondent-Mandal Revenue Officer to cancel the D-form pattas and Pattadar Pass Books issued to the D-form pattadars and also the Pattadar Pass Books issued to the land purchasers and resume the land.

Heard the learned Counsel for the petitioners as well as the learned Government Pleader for Revenue.

It is the case of the petitioners that D form pattas were issued to the petitioners in respect of the lands in S.No:9/3, 4, 5, and 6 of Yerrabhupalapatnam for a total extent of Ac.4.53 cents of land in the year 1989-90 by the Mandal Revenue Officer and subsequently, the petitioners have sold away the said lands to one Sandarana Eswararao, Sandarana Suryanarayana, Dasari Venkataramana and Dasari Govinda Raju of Gajuwaka and the Mandal Revenue Officer also issued pattadar Pass books to them in the year 1999. It is further stated that during the spandana programme, on the complaint given by one Meelasu Chinna Ramaswamy alias Demudunaidu and three others to the 1st respondent-Joint Collector, without conducting any enquiry as to the allegations, he passed the order impugned directing the 2nd respondent to cancel the D form pattas issued to the petitioners as well as the purchasers and resume the land. It is the further case of the petitioners

that as there is no show cause notice and no reasonable opportunity has been given to the petitioners, the impugned order is against the principles of natural justice and thereby, the same is liable to be set aside.

Under the provisions of section 4-B of the A.P. Assigned Lands (prohibition of Transfers) Act, 1977 (for short, 'the Act'), the District Collector in respect of any proceeding not being a proceeding covered by sub section (2) of section 4-A, has got right to exercise revisional power either suomotu or on an application to call for and examine the record of any officer subordinate to him or to satisfy himself as to the regularity of such proceeding or the correctness, legality or propriety of any decision or order taken or passed therein, and if in any case, it appears to the District Collector or as the case may be to the Government that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, they may pass orders accordingly.

The provisions make it clear that the Joint Collector has got power to cancel D form pattas and the original authority viz., Mandal Revenue Officer has also got power to issue a notice under section 3 of the Act in form No:1 for contravention of sub sections 2 and 3 of section 3 of the Act directing the concerned persons to give explanation and after considering the same, to pass appropriate orders under Section 4 (1) of the Act resuming the land by canceling the D form patta and the entries made in the revenue records.

Against the order of the Mandal Revenue Officer, the provisions of section 4-A of the Act enables the aggrieved party to prefer an appeal before the Revenue Divisional Officer. Against the said order, a revision lies before the District Collector under the provisions of section 4-B of the Act.

But, in the instant case, on the representation submitted at the time of Spandana Programme, the revisional authority has straight away passed the orders without giving any opportunity to the petitioners. Hence, I am of the opinion that the order impugned suffers from legal infirmity and the same is liable to be set aside.

Having regard to the facts and circumstances of the case, this writ petition is allowed and the impugned order is set aside directing to pass an appropriate order afresh either by the Revisional Authority viz., the Joint Collector or by the original Authority viz., Mandal Revenue Officer in accordance with law after issuing notice to

the petitioners. No order as to costs.

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V.ESWARAIAH.J

Dt. 14.03.2006

Nn.